

DISTRICT COURT OF GUAM
TERRITORY OF GUAM
MINUTES - TRIAL

FILED

DISTRICT COURT OF GUAM

JUN 12 2006

MARY L.M. MORAN
CLERK OF COURT

CASE NO. CR-04-00008

DATE: June 12, 2006

HON. JOHN A. HOUSTON, Designated Judge, Presiding

Official Court Reporter: Wanda Miles

Hearing Electronically Recorded: 9:09:06 - 9:17:36; 9:51:00 - 11:09:52

11:37:14 - 12:47:57; 1:18:41 - 1:55:55

Law Clerk: None Present

Courtroom Deputy: Leilani Toves Hernandez

CSO: J. Lizama / B. Pereda / F. Tenorio

***** APPEARANCES *****

DEFT KUANG HUA CHEN

(X) PRESENT (X) CUSTODY () BOND () P.R.

ATTY CURTIS VAN DE VELD

(X) PRESENT (X) RETAINED () FPD () CJA APPOINTED

U.S. ATTORNEY: MARIVIC DAVID

AGENT: KEN BOWMAN, D.E.A.

U.S. PROBATION: NONE PRESENT

U.S. MARSHAL: V. ROMAN / C. MARQUEZ

INTERPRETER: JULIA BERG

LANGUAGE: MANDARIN

DAY NO. 4 OF TRIAL

() JURY EMPANELED AND SWORN

() OPENING STATEMENT BY THE ___ Plaintiff ___ Defendant

(X) WITNESSES SWORN AND EXAMINED (X) EXHIBITS MARKED AND ADMITTED

SEE ATTACHED EXHIBIT AND WITNESS LIST, AO FORM 187 (and 187A, when applicable)

() CLOSING ARGUMENT BY THE ___ Plaintiff ___ Defendant

(X) TRIAL/DELIBERATION CONTINUED TO: June 13, 2006 at 9:00 a.m.

() JURY CHARGED BY COURT

() JURY DELIBERATE AT _____ () JURY RETURNS VERDICT AT: _____

() JURY VERDICT: _____

() JURY POLLED () POLLING WAIVED () JURY DISCHARGED

() COURT FINDINGS: _____

(X) OTHER MATTER(s):

Both parties rested their case.

Defense moved and argued for a Rule 29 Motion for Judgment of Acquittal and dismissal of Counts 1 and 3 with prejudice. Rebuttal argument by the Government. The Court Denied the dismissal of Counts 1 and 3, and stated its reasons. Defense also moved for dismissal of all charges based on the Government's non-disclosure of Mr. Tang's identity prior to the deposition of Mr. Yeh. Rebuttal argument by the government. The Court Denied the Motion.

No further written order will be forthcoming on the Court's rulings for both motions.

Jurors were released and instructed to report in at 9:00 a.m. tomorrow.

Defendant was sworn and examined. Defendant waived his right to testify in his case.

The Court and parties discussed the proposed jury instructions.

UNITED STATES DISTRICT COURT

DISTRICT OF

GUAM

United States of America

EXHIBIT AND WITNESS LIST

V.

Kuang Hua Chen

Case Number: **CR-04-00008**

PRESIDING JUDGE JOHN A. HOUSTON						PLAINTIFF'S ATTORNEY MARIVIC DAVID	DEFENDANT'S ATTORNEY CURTIS VAN DE VELD
HEARING DATE (S) June 7-12, 2006						COURT REPORTER WANDA MILES	COURTROOM DEPUTY LEILANI TOVES HERNANDEZ
JOINT NO.	PLTF NO.	DEF NO.	DATE OFFERED	DATE IDENTIFIED	DATE ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES	
						3:20:50 - 3:35:27 Opening statement by Ms. David	
						3:36:00 - 3:39:24 Opening statement by Mr. Van de Veld	
						PETER WEAY JUNG SHIH, called and sworn	
						DX by Ms. David	
	3		6/7/06	6/7/06	6/7/06	Photo of Crazy Shirts shopping bag	
	4		6/7/06	6/7/06	6/7/06	Crazy Shirts shopping bag	
	5a		6/7/06	6/7/06	6/7/06	Chinese tea box with blue/white foil bag	
	5b		6/7/06	6/7/06	6/7/06	Photo of one Chinese tea box w/ red cover on top of Crazy Shirts shopping bag	
	9		6/7/06	6/7/06	6/7/06	Compact disc recording of first August 27, 2003 meeting	
	10		6/7/06	6/7/06	6/7/06	Transcript of first August 27, 2003 meeting	
	12b		6/7/06	6/7/06	6/7/06	Compact disc recording of Exhibit 12a	
	13a		6/7/06	6/7/06	6/7/06	Transcript of second August 27, 2003 meeting	
	11b		6/7/06	6/7/06	6/7/06	Compact disc recording of Exhibit 11a	
	13b		6/7/06	6/7/06	6/7/06	Videotape of second August 27, 2003 meeting	
						4:24:26 End DX by Ms. David	
						CX by Mr. Van de Veld	
	4		6/7/06	6/7/06	6/7/06	Crazy Shirts shopping bag	
	3		6/7/06	6/7/06	6/7/06	Photo of Crazy Shirts shopping bag	
	5a		6/7/06	6/7/06	6/7/06	Chinese tea box with blue/white foil bag	
	5b		6/7/06	6/7/06	6/7/06	Photo of one Chinese tea box w/ red cover on top of Crazy Shirts shopping bag	
		D	6/7/06	6/7/06	6/7/06	Peter Shih Amended Criminal Judgment	
		E	6/7/06	6/7/06	6/7/06	Peter Shih Informant Payment Record	
		F	6/7/06	6/7/06	6/7/06	Asia region date line map w/ highlighted circle indicating Taiwan and a highlighted square indicating Guam	
						4:48:21 End CX	
						Re-DX by Ms. David	
	4		6/7/06	6/7/06	6/7/06	Crazy Shirts shopping bag	
	5a		6/7/06	6/7/06	6/7/06	Chinese tea box with blue/white foil bag	
						Re-CX by Mr. Van de Veld	
						4:52:35 Witness excused	
						4:57:45 End Day 1	
						10:14:57 BEGIN DAY 2	
						MICHAEL HERNANDEZ, called and sworn	
						DX by Ms. David	
	1a-d		6/8/06	6/8/06	6/8/06	Copy of Republic of China passport of Hung-Chang Yeh with U.S. Visa and I-94 arrival and departure record	
	2		6/8/06	6/8/06	6/8/06	Copy of airline ticket of Hung-Chang Yeh	
	14		6/8/06	6/8/06	6/8/06	Three Chinese tea boxes with blue/white foil bags	
	5c		6/8/06	6/8/06	6/8/06	Photo of contents of Chinese tea box	

PRESIDING JUDGE JOHN A. HOUSTON						PLAINTIFF'S ATTORNEY MARIVIC DAVID	DEFENDANT'S ATTORNEY CURTIS VAN DE VELD
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JOINT NO.	PLTF NO.	DEF. NO.	DATE OFFERED	DATE IDENTIFIED	DATE ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES	
	5d		6/8/06	6/8/06	6/8/06	Photo of one plastic bag of crystalline substance	
	15		6/8/06	6/8/06	6/8/06	Photo of one Chinese tea box and red cover with blue/white foil bag of crystalline substance	
	16a-b		6/8/06	6/8/06	6/8/06	Photos of two Chinese tea boxes with green covers and contents	
	17		6/8/06	6/8/06	6/8/06	Photo of evidence bag containing three plastic bags of 2,078 grams of N, N-dimethylamphetamine Hcl	
						10:46:28 End DX	
						CX by Mr. Van de Veld	
	1d		6/8/06	6/8/06	6/8/06	Copy of I-94 arrival and departure record of Hung-Chang Yeh	
	2		6/8/06	6/8/06	6/8/06	Copy of airline ticket of Hung-Chang Yeh	
	14		6/8/06	6/8/06	6/8/06	Three Chinese tea boxes with blue/white foil bags	
	5c		6/8/06	6/8/06	6/8/06	Photo of contents of Chinese tea box	
	16a-b		6/8/06	6/8/06	6/8/06	Photos of two Chinese tea boxes with green covers and contents	
	17		6/8/06	6/8/06	6/8/06	Photo of evidence bag containing three plastic bags of 2,078 grams of N, N-dimethylamphetamine Hcl	
						11:04:44 End CX	
						Re-DX by Ms. David	
	2		6/8/06	6/8/06	6/8/06	Copy of airline ticket of Hung-Chang Yeh	
						11:05:55 End Re-DX; No further examination by counsel	
						Witness excused	
						NORBERT K. SABLAN, called and sworn	
						DX by Ms. David	
	3		6/7/06	6/7/06	6/7/06	Photo of Crazy Shirts shopping bag	
	4		6/7/06	6/7/06	6/7/06	Crazy Shirts shopping bag	
	5a		6/7/06	6/7/06	6/7/06	Chinese tea box with blue/white foil bag	
	5b		6/7/06	6/7/06	6/7/06	Photo of one Chinese tea box w/ red cover on top of Crazy Shirts shopping bag	
	5c		6/8/06	6/8/06	6/8/06	Photo of contents of Chinese tea box	
	5d		6/8/06	6/8/06	6/8/06	Photo of one plastic bag of crystalline substance	
	14		6/8/06	6/8/06	6/8/06	Three Chinese tea boxes with blue/white foil bags	
	15		6/8/06	6/8/06	6/8/06	Photo of one Chinese tea box and red cover with blue/white foil bag of crystalline substance	
	16a-b		6/8/06	6/8/06	6/8/06	Photos of two Chinese tea boxes with green covers and contents	
	17		6/8/06	6/8/06	6/8/06	Photo of evidence bag containing three plastic bags of 2,078 grams of N, N-dimethylamphetamine Hcl	
	6		6/8/06	6/8/06	6/8/06	Evidence bag of 729.2 grams of N, N-dimethylamphetamine Hcl	
	18a-b		6/8/06	6/8/06	6/8/06	Evidence bag of 2,078 grams of N, N-dimethylamphetamine Hcl	
	19		6/8/06	6/8/06	6/8/06	DEA lab report - 2,078 grams of N, N-dimethylamphetamine Hcl	
						11:26:00 End DX	
						CX by Mr. Van de Veld	
	6		6/8/06	6/8/06	6/8/06	Evidence bag of 729.2 grams of N, N-dimethylamphetamine Hcl	
	18a-b		6/8/06	6/8/06	6/8/06	Evidence bag of 2,078 grams of N, N-dimethylamphetamine Hcl	
	7		6/8/06			DEA lab report - 729.2 grams of N, N-dimethylamphetamine Hcl	
	19		6/8/06	6/8/06	6/8/06	DEA lab report - 2,078 grams of N, N-dimethylamphetamine Hcl	
	15		6/8/06	6/8/06	6/8/06	Photo of one Chinese tea box and red cover with blue/white foil bag of crystalline substance	
	16a-b		6/8/06	6/8/06	6/8/06	Photos of two Chinese tea boxes with green covers and contents	

PRESIDING JUDGE JOHN A. HOUSTON						PLAINTIFF'S ATTORNEY MARIVIC DAVID	DEFENDANT'S ATTORNEY CURTIS VAN DE VELD
HEARING DATE (S) June 7-12, 2006						COURT REPORTER WANDA MILES	COURTROOM DEPUTY LEILANI TOVES HERNANDEZ
JOINT NO.	PLTF NO.	DEF. NO.	DATE OFFERED	DATE IDENTIFIED	DATE ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES	
	17		6/8/06	6/8/06	6/8/06	Photo of evidence bag containing three plastic bags of 2,078 grams of N, N-dimethylamphetamine Hcl	
						11:43:9 End CX	
						Re-DX by Ms. David	
	7		6/8/06	6/8/06		DEA lab report - 729.2 grams of N, N-dimethylamphetamine Hcl	
						12:01:06 End Re-DX; Re-CX by Mr. Van de Veld	
	7		6/8/06	6/8/06		DEA lab report - 729.2 grams of N, N-dimethylamphetamine Hcl	
						12:05:02 End Re-CX; No further examination by counsel	
						Witness excused	
						12:05 Jurors excused for lunch	
						Government Exhibit #6 admitted	
						12:40:43 LUNCH BREAK	
						1:39:09 RESUME TRIAL	
						TAT TANG, called and sworn; assisted by CHUNG HARRELL, Interpreter	
						DX by Ms. David	
	36		6/8/06	6/8/06	6/8/06	Compact disc recording b/w CS and Chen (July 9, 2003; Macau)	
	37		6/8/06	6/8/06	6/8/06	Partial transcript of July 9, 2003 Macau recording	
						12:40:43 LUNCH BREAK	
						1:39:09 RESUME TRIAL	
	39		6/8/06	6/8/06		Compact disc recording b/w CS and Chen (July 10, 2003; Macau)	
	40		6/8/06	6/8/06	6/8/06	Partial transcript of July 10, 2003 Macau recording	
	45		6/8/06	6/8/06	6/8/06	Compact disc recording b/w CS and Chen (August 2, 2003; Macau)	
	46		6/8/06	6/8/06	6/8/06	Partial transcript of August 2, 2003 Macau recording	
	48		6/8/06	6/8/06	6/8/06	Compact disc recording b/w CS and Chen (August 12, 2003; Macau)	
	49		6/8/06	6/8/06	6/8/06	Partial transcript of August 12, 2003 Macau recording	
	57		6/8/06	6/8/06	6/8/06	Compact disc recording b/w CS and Chen (August 22, 2003; Macau)	
	58		6/8/06	6/8/06	6/8/06	Partial transcript of August 22, 2003 Macau recording	
	63		6/8/06	6/8/06	6/8/06	Compact disc recording b/w CS and Chen (August 27, 2003; Macau)	
	64		6/8/06	6/8/06	6/8/06	Partial transcript of August 27, 2003 Macau recording	
						4:08:11 BREAK	
						4:24:45 RESUME TRIAL	
	66		6/8/06	6/8/06	6/8/06	Compact disc recording b/w CS and Chen (October 9, 2003; Hong Kong)	
	67		6/8/06	6/8/06	6/8/06	Partial transcript of October 9, 2003; Hong Kong recording	
	26b		6/8/06	6/8/06	6/8/06	DVD of meeting with Chen	
						Defense objected to the admittance - Overruled, Exhibit 26b was admitted	
						5:04:12 Jurors excused	
						Defense argued the Rule 404b issue related to witness' prior testimony. Rebuttal by argument by the Government. The Court reconsidered its previous ruling regarding the testimony of Mr. Yu and stated that it is outside of the time frame of the conspiracy, therefore that portion of the testimony will be stricken.	
						5:12:01 END DAY 2	
						9:15:15 BEGIN DAY 3	
						<i>Government moved to admit Exhibits 7 and 39 - Granted</i>	
						<i>Defense moved to admit Exhibits B and C - Government argued objections to Exhibit C. Defense redacted a portion of the exhibit - Both exhibits were admitted</i>	
						CX by Mr. Van de Veld	
						9:44:46 - 10:00 BREAK	
		C	6/9/06	6/9/06	6/9/06	Tat Tang Compensation for this case	
		B	6/9/06	6/9/06	6/9/06	Tat Tang Total Informant Compensation	
	49		6/8/06	6/8/06	6/8/06	Partial transcript of August 12, 2003 Macau recording	
						11:56:47 - 1:29:00 LUNCH BREAK	
	26b		6/8/06	6/8/06	6/8/06	DVD of meeting with Chen	
						2:06:55 End CX by Mr. Van de Veld	

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JOINT NO.	PLTF NO.	DEF. NO.	DATE OFFERED	DATE IDENTIFIED	DATE ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES	
						Re-DX by Ms. David	
						2:28:16 End Re-DX	
						Re-CX by Mr. Van de Veld	
						2:39:26 End Re-CX; No further examination by counsel	
						Witness excused	
						JOSHUA CUTHBERTSON, called and sworn	
						DX by Ms. David	
	27		6/9/06	6/9/06		Passport of Chen	
	28		6/9/06	6/9/06		Hong Kong multiple entry permit of Chen	
	29		6/9/06	6/9/06		Chinese passport (green) of Chen	
						2:47:17 End DX; No CX by Mr. Van de Veld	
						Witness excused	
						TEDDY SO CHUNG WAH, called and sworn	
						DX by Ms. David	
	25		6/9/06	6/9/06	6/9/06	Holiday Inn note	
						3:04:01 - End DX	
						CX by Mr. Van de Veld	
	25		6/9/06	6/9/06	6/9/06	Holiday Inn note	
						3:34:27 - 4:01:52 BREAK	
						4:04:01 End CX	
						Re-DX by Ms. David	
	25		6/9/06	6/9/06	6/9/06	Holiday Inn note	
						4:06:40 End Re-DX; No further CX by Mr. Van de Veld	
						<i>Witness called out of order by Defense</i>	
						DX by Mr. Van de Veld	
						4:17:40 End DX; No CX by Ms. David	
						Witness excused	
						DUNCAN BRUCE LINGLE, called and sworn	
						DX by Ms. David	
						4:29:55 End DX	
						CX by Mr. Van de Veld	
		C	6/9/06	6/9/06	6/9/06	Tat Tang Compensation for this case	
		B	6/9/06	6/9/06	6/9/06	Tat Tang Total Informant Compensation	
		E	6/7/06	6/7/06	6/7/06	Peter Shih Informant Payment Record	
						4:49:21 End CX; No further CX by Ms. David	
						<i>Witness called out of order by Defense</i>	
						DX by Mr. Van de Veld	
						5:00:54 End DX	
						CX by Ms. David	
						5:02:53 End CX by Ms. David	
						Re-DX by Mr. Van de Veld; No further examination by counsel	
						Witness excused	
						5:08:34 END DAY 3	
						9:09:06 BEGIN DAY 4	
						<i>Government moves to admit Exhibits 27, 28, and 29. No objections - Granted</i>	
						<i>Government stated that it will introduce Exhibits 22 and 24, and moved for their admission. No objections - Granted</i>	
						<i>Defense Exhibit G was admitted</i>	
						9:17:36 - 9:51:00 BREAK	
						Government introduced Exhibit 24, and moved that it would be read through the case agent, who will represent Tat Tang. Defense had no objections, however, stated that parties stipulated that at the time the deposition was taken, he did not know the identity of Tat Tang	

